

THE NEED TO RE-CONSIDER U.S. COASTAL POLICY

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The recent "Stratton Roundtable" discussion in Washington, D.C. (May 1, 1998), in which we participated, was focused almost exclusively upon ocean (EEZ) policy and issues. While a comprehensive reexamination of the many significant U.S. ocean policy issues and problems is certainly warranted, we believe it is also critical to recognize the need to re-consider U.S. coastal policies, programs, issues, and problems, which are not to be subsumed under the broad rubric of "ocean" policy. Consequently, we would endorse the establishment of an independent national commission with sufficient expertise and resources whose mandate would include a re-examination of coastal and ocean laws, policies and programs, with specific emphasis upon the complex interactions involving the land-coast-ocean ecosystem.

In the United States, we are almost 25 years into implementation of the federal-state-local coastal zone management program, which now includes participation by 32 coastal states and territories. More than \$1 billion in federal dollars and nearly an equal amount of state dollars have been expended to support this effort. Generally, and despite the lack of "hard" evaluative evidence, coastal management programs are thought to be successful, and, in fact, to serve as some kind of model for coastal management internationally. It is apparent that, whatever else one might say about the U.S. coastal management experience, this unique program has become "institutionalized" if not bureaucratized as it has reached middle-age.

Despite this success, our concern is that serious environmental and natural resource management problems persist in the coastal areas of the United States and must be considered anew, perhaps from very different viewpoints than have prevailed in recent decades, because, to put the matter as clearly

as we can, our current policies have not solved these problems, with potentially disastrous consequences for coastal areas and resources.

It is not difficult to compile a list of these problems and consequences. To illustrate, we offer several major issues and problems that seem to be intractable in terms of existing environmental and coastal policies. First, because of its ubiquity and the seriousness of its effects, is the problem of non-point source pollution, especially in coastal areas and waters. Although in 1990 the Congress established the so-called "6217" program to require coastal states to develop strategies to deal with coastal non-point source pollution, the program has been beset with difficulties, controversy, and lack of funding. Eight years after its inception, the program has failed to achieve the expectations of its proponents. But, we hazard to say, "the technical" means to address non-point source pollution are not particularly difficult to devise or perhaps even very costly to implement, in societal terms, when the magnitude of its adverse effects are considered.

The difficulties are largely matters of policy, law, and politics. For example, and for reasons we will not explore here, the legal authority to address non-point source pollution under the Clean Water Act (CWA) is extremely limited; this is not to say that there is no authority to do so under the CWA. But, for the federal government to assert sufficient authority under the Constitution to deal with the problems of non-point source pollution would result in a massive shift of control over land and water uses from state and local governments to the federal. No one has proposed such a direct and major re-structuring of political and legal authority in the United States, and we would be horrified at any such prospect. On the other hand, states and local governments possess all the legal authority necessary to address this problem — the

most serious water pollution problem the nation must confront. The difficulties lie in the areas of their willingness and capacity to do so. Therefore, in our opinion, a major task of any re-examination of U.S. coastal policy will be to devise a strategy to bring this wealth of state and local authority into play, so to speak. We won't anticipate the outcome of such a re-examination, but we strongly believe that this issue is equally as important as any strictly "ocean" policy issue one might suggest as worthy of attention in any major policy review.

An important second example concerns wetlands protection. Here, the federal government claims substantial authority under the CWA to manage activities affecting wetlands. Yet, the complexity and ambiguity of the section 404 program of the CWA have rendered it an ineffectual program to protect wetlands. In some respects, it has become a program to license their destruction. The consistency provisions of the Coastal Zone Management Act (CZMA) provide the means for states to supplement federal authority under the CWA to protect coastal wetlands. Yet this consistency authority, as important as it may be, is re-active (that is, it won't support a positive, pro-active policy or program) and is subject to review and nullification by the Secretary of Commerce. Any study of national coastal policy must address the adequacy of, and propose means to strengthen, federal, state, and local authority and capacity to protect wetlands.

A third issue of great importance in any re-consideration of national coastal policy involves "updating" or modernizing federal laws and programs, such as the CZMA, which were enacted in an era when we were first becoming aware of the findings of modern ecological science. Although we believe that the CZMA was an innovative piece of legislation, and essentially sound environmentally and politically in its state- and local government-based approach to managing and

protecting coastal areas and resources, it does not embody a consistent ecosystem-focused view of coastal management. For example, the inland boundaries of the "coastal zone" of the states, as defined by the CZMA, vary widely from state to state because the CZMA permits almost unfettered discretion in federal and state managers to determine such boundaries. In no state do they include sufficient space to incorporate areas such as watersheds and drainage areas where human activities and ecological processes affect coastal lands, waters, and resources. This lack of ecosystem management perspective in the CZMA, as well as in the CWA and other federal and state laws, demands attention in any re-consideration of U.S. coastal policy.

We could easily add to this list of coastal problems and issues demanding and not receiving attention. They are not trivial or merely involve filling in the gaps of current policy. On the contrary, addressing them requires some basic re-thinking of existing coastal law, policies, and programs within a more comprehensive re-examination of coastal-ocean governance and of the extensive linkages among landside activities and the health of the oceans.

Finally, we would like to suggest that, although a modern "ocean" policy for the United States may require the expansion of federal agency authority, such as in the EEZ, "coastal" policy does not. We would argue that the strategy adopted in the CZMA points us in the right direction in devising coastal policy — greater reliance upon state and local government authority, greater involvement of local communities and citizens in decisions affecting the environment and allocating and protecting natural resources, and a more generous provision of federal assistance and funds to build state and local capacity. And it may be that this "coastal" model is relevant to certain EEZ resource management issues. This minor heresy might be worth some attention.